

# Senate Study Bill 1083

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
INSPECTIONS AND APPEALS BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the imposition of civil and criminal penalties  
2 and investigation costs where a person fraudulently or  
3 otherwise receives certain state benefits.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 1259DP 81  
6 jr/sh/81

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1 1 Section 1. NEW SECTION. 10A.404 CIVIL PENALTIES ==  
1 2 INVESTIGATION COSTS == PRESUMPTION OF LIABILITY == LIMITATION  
1 3 OF ACTIONS.  
1 4 1. For the purposes of this section, unless the context  
1 5 otherwise requires:  
1 6 a. "Benefit" means a service, payment, merchandise, or  
1 7 other assistance administered by this state and received under  
1 8 any of the following chapters:  
1 9 (1) Chapter 234, relating to child and family services.  
1 10 (2) Chapter 237A, relating to child care assistance.  
1 11 (3) Chapter 239B, relating to the family investment  
1 12 program.  
1 13 (4). Chapter 249, relating to the state supplementary  
1 14 assistance program.  
1 15 (5). Chapter 249A, relating to the medical assistance  
1 16 program.  
1 17 b. "Provider" means a person, who is a provider of  
1 18 service, merchandise, or other assistance under any of the  
1 19 chapters listed in paragraph "a", who receives a proven  
1 20 program benefit to or for which the person is not entitled or  
1 21 eligible.  
1 22 c. "Recipient" means a person who receives a program  
1 23 benefit to which the person is not entitled or eligible where  
1 24 the total value in dollars of such benefit is more than one  
1 25 thousand dollars.  
1 26 2. a. This section applies if a recipient or provider who  
1 27 receives a benefit knowingly does any of the following:  
1 28 (1) Presents, causes to be presented, or acquiesces in the  
1 29 presentation of a false claim or false information.  
1 30 (2) Makes or causes to be made, or uses a false record or  
1 31 statement.  
1 32 (3) Commits fraud or conspires to commit fraud.  
1 33 (4) Fails to provide information or to disclose a material  
1 34 fact, including but not limited to, information concerning  
1 35 property interests or resources.  
2 1 b. This section does not apply if a recipient or provider,  
2 2 through no fault of the recipient or provider, receives a  
2 3 benefit or a portion of a benefit to or for which the  
2 4 recipient or provider is not entitled or eligible, and if the  
2 5 receipt of the benefit or a portion of the benefit is the  
2 6 result of error, improper application, interpretation, or  
2 7 implementation of the program rules or policies specific to  
2 8 the chapter under which the benefit is received.  
2 9 3. In addition to any other penalty or payment amount  
2 10 authorized under law, a recipient or provider is liable as  
2 11 provided in this section for a civil penalty and costs of  
2 12 investigation, as established by any of the following means:  
2 13 a. Upon a criminal conviction, entry of a guilty plea, or  
2 14 entry of a finding of guilt in a state or federal prosecution  
2 15 that is directly related to a benefit administered by the  
2 16 state under a chapter listed in subsection 1, the sentencing  
2 17 court may order payment in accordance with this section.  
2 18 However, if the sentencing court fails to order the payment, a

2 19 civil proceeding to enforce payment may be instituted in  
2 20 accordance with subsection 8.

2 21 b. Upon entry of a civil judgment or confession of  
2 22 judgment in a state or federal court proceeding that is  
2 23 directly related to a benefit administered by the state under  
2 24 a chapter listed in subsection 1, the court entering judgment  
2 25 may order payment in accordance with this section. However,  
2 26 if the court ordering judgment fails to order the payment, a  
2 27 civil proceeding to enforce payment may be instituted in  
2 28 accordance with subsection 8.

2 29 c. Upon a finding in a contested case in a state or  
2 30 federal proceeding that is directly related to a benefit  
2 31 administered by the state under a chapter listed in subsection  
2 32 1, a civil proceeding to enforce payment may be instituted in  
2 33 accordance with subsection 7.

2 34 4. A civil penalty imposed under this section shall be as  
2 35 follows:

3 1 a. For a recipient, a civil penalty of not more than three  
3 2 times the total dollar amount of the benefit to or for which  
3 3 the person is not entitled or eligible.

3 4 b. For a provider, the court ordering payment of this  
3 5 civil penalty may order payment of a maximum penalty not to  
3 6 exceed three times the total dollar amount of the benefit to  
3 7 or for which the provider is not entitled or eligible.

3 8 5. Investigation costs ordered to be paid under this  
3 9 section shall be as follows:

3 10 a. For a recipient, not more than five hundred dollars of  
3 11 the costs incurred by the department in investigating the  
3 12 matter.

3 13 b. For a provider, the reasonable costs incurred by the  
3 14 department in investigating the matter.

3 15 c. The court ordering payment of investigative costs shall  
3 16 determine the type and amount of the department's  
3 17 investigative costs. Investigation costs include, but are not  
3 18 limited to, the reasonable cost of the time used by  
3 19 investigators to conduct the investigation and all reasonable  
3 20 monetary costs incurred by the department in the course of the  
3 21 investigation.

3 22 6. A recipient or provider is not liable for a civil  
3 23 penalty under this section if a civil penalty has otherwise  
3 24 been ordered under federal or state law or regulation.

3 25 7. Institution of a criminal proceeding is not a  
3 26 prerequisite or condition for an action to enforce this  
3 27 section.

3 28 8. A civil proceeding to enforce payment under this  
3 29 section shall be instituted in the district court of the  
3 30 county in which the recipient or provider received the  
3 31 benefit. The office of the attorney general or the county  
3 32 attorney may institute the civil proceeding, which may  
3 33 commence after or at the same time as any related state or  
3 34 federal criminal, civil, or administrative proceeding directly  
3 35 related to a benefit to or for which the recipient or provider  
4 1 was not entitled or eligible. The department may pursue  
4 2 imposition and payment of a civil penalty or investigation  
4 3 costs or both.

4 4 9. A rebuttable presumption arises that a recipient or  
4 5 provider is liable for the civil penalty and the investigation  
4 6 costs after any of the following occurs in a state or federal  
4 7 criminal, civil, or administrative proceeding that is directly  
4 8 related to payment or collection of payments received by a  
4 9 recipient or provider for a benefit:

4 10 a. Entry of a criminal conviction, plea of guilty, or  
4 11 finding of guilt.

4 12 b. Entry of a judgment or confession of judgment in a  
4 13 civil proceeding.

4 14 c. Entry of an administrative finding in a contested case  
4 15 following an opportunity for a due process hearing, adverse to  
4 16 the person or establishing the person's liability.

4 17 10. The presumption may only be rebutted by clear and  
4 18 convincing evidence that the recipient or provider was  
4 19 properly entitled to or eligible for the benefit.

4 20 11. A civil action under this section shall not be  
4 21 instituted more than five years after the date the state  
4 22 discovered that a recipient or provider received a benefit.

4 23 12. The collection of penalties or investigation costs  
4 24 under this section shall not occur until the person assessed a  
4 25 penalty or investigation costs exhausts all appeal rights  
4 26 provided by chapter 17A.

4 27 13. The departments of human services and inspections and  
4 28 appeals shall cooperate and each adopt rules pursuant to  
4 29 chapter 17A as necessary for the administration, collection,

4 30 and allocation of civil penalties. The department of  
4 31 inspections and appeals shall adopt rules pursuant to chapter  
4 32 17A as necessary for the administration, collection, and  
4 33 allocation of investigation costs.

4 34 Sec. 2. NEW SECTION. 234.13A CIVIL PENALTIES == PAYMENT  
4 35 OF INVESTIGATION COSTS.

5 1 If a person receives, under this chapter, a service,  
5 2 payment, merchandise, or other assistance to or for which the  
5 3 person is not entitled or eligible, the person's liability for  
5 4 civil penalties and investigation costs shall be determined in  
5 5 accordance with section 10A.404.

5 6 Sec. 3. NEW SECTION. 237A.14 FRAUDULENT PRACTICES ==  
5 7 RECOVERY OF OVERPAYMENTS.

5 8 1. An individual who receives, or attempts to receive, or  
5 9 aids or abets another individual in receiving, by means of a  
5 10 willfully false statement or representation, by knowingly  
5 11 failing to disclose a material fact, or by impersonation, or  
5 12 through any fraudulent device, any assistance, payment, or  
5 13 other benefit under this chapter to or for which the  
5 14 individual is not entitled or eligible, commits a fraudulent  
5 15 practice.

5 16 2. An individual who commits a fraudulent practice under  
5 17 this section is personally liable for the amount of the  
5 18 assistance, payment, or other benefit fraudulently received.  
5 19 The amount of the assistance, payment, or other benefit may be  
5 20 recovered from the individual or the individual's estate in an  
5 21 action brought or by a claim filed in the name of the state.  
5 22 The recovered funds shall be considered repayment receipts as  
5 23 defined in section 8.2 to be used for state child care  
5 24 assistance under section 237A.13. The action or claim filed  
5 25 in the name of the state shall not be considered an election  
5 26 of remedies to the exclusion of other remedies.

5 27 3. The department shall adopt rules pursuant to chapter  
5 28 17A as necessary to recover overpayments of assistance,  
5 29 payments, and benefits provided under this chapter. The  
5 30 recovery methods shall include but are not limited to reducing  
5 31 the amount of assistance, payments, or benefits provided.

5 32 Sec. 4. NEW SECTION. 237A.15 CIVIL PENALTIES == PAYMENT  
5 33 OF INVESTIGATION COSTS.

5 34 If a person receives under this chapter assistance,  
5 35 payment, or other benefit to or for which the person is not  
6 1 entitled or eligible, the person's liability for civil  
6 2 penalties and investigation costs shall be determined in  
6 3 accordance with section 10A.404.

6 4 Sec. 5. NEW SECTION. 239B.14A CIVIL PENALTIES == PAYMENT  
6 5 OF INVESTIGATION COSTS.

6 6 If a person receives under this chapter assistance or  
6 7 another benefit to or for which the person is not entitled or  
6 8 eligible, the person's liability for civil penalties and  
6 9 investigation costs shall be determined in accordance with  
6 10 section 10A.404.

6 11 Sec. 6. NEW SECTION. 249.11A CIVIL PENALTIES == PAYMENT  
6 12 OF INVESTIGATION COSTS.

6 13 If a person receives under this chapter a payment to or for  
6 14 which the person is not entitled or eligible, the person's  
6 15 liability for civil penalties and investigation costs shall be  
6 16 determined in accordance with section 10A.404.

6 17 Sec. 7. NEW SECTION. 249A.8A CIVIL PENALTIES == PAYMENT  
6 18 OF INVESTIGATION COSTS.

6 19 If a person receives under this chapter assistance or  
6 20 payment for medical assistance or payment for services or  
6 21 merchandise under this chapter to or for which the person is  
6 22 not entitled or eligible, the person's liability for civil  
6 23 penalties and investigation costs shall be determined in  
6 24 accordance with section 10A.404.

6 25 EXPLANATION

6 26 This bill provides for civil penalties and requires the  
6 27 payment of investigation costs where a person fraudulently  
6 28 receives a state benefit to or for which the person is not  
6 29 entitled or eligible. The bill applies to benefits relating  
6 30 to child and family services under Code chapter 234, child  
6 31 care assistance under Code chapter 237A, the family investment  
6 32 program under Code chapter 239B, the state supplementary  
6 33 assistance program under Code chapter 249, and the medical  
6 34 assistance program under Code chapter 249A.

6 35 The bill does not apply in those circumstances where a  
7 1 person, through no fault of the person, receives benefits and  
7 2 where the benefit was the result of error or improper  
7 3 application, interpretation, or implementation of the program  
7 4 rules or policies of the benefit program.

